

UNITED STATES DISTRICT COURT

for the

Middle District of Tennessee

United States of America

v.

DEONTAE BIRDSOING

a/k/a D'TAE

Case No. 19-mj-2342

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 12, 2019 in the county of Davidson in the Middle District of Tennessee, the defendant(s) violated:

Code Section

Title 18, United States Code,
Section 1513(b)(1) and (c)

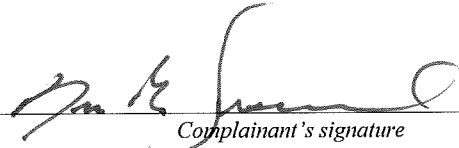
Offense Description

did knowingly engage in conduct, to-wit: an assault of witness (Carlos Valcarcel-Arocho), which caused bodily injury to the witness, with the intent to retaliate against the witness for the witness' testimony in an official proceeding, the trial of United States v. Dione L. Breedlove, Case No. 3:18-cr-00253, in United States District Court, Middle District of Tennessee, in October of 2019.

This criminal complaint is based on these facts:

See attached Statement in Support of Criminal Complaint incorporated herein.

☒ Continued on the attached sheet.



Complainant's signature

FBI TFO Keith M. Sutherland

Printed name and title

Sworn to before me and signed in my presence.

Date: 12/20/2019



Judge's signature

City and state: NASHVILLE, TN

Jeffery S. Frensley, United States Magistrate Judge

Printed name and title

STATEMENT IN SUPPORT OF CRIMINAL COMPLAINT

(DEONTAE BIRDSONG a/k/a D'TAE)

1. I, Keith M. Sutherland, have been employed by the Metropolitan Nashville Police Department for over 26 years. Currently, I am assigned to the Federal Bureau of Investigation's ("FBI") West Tennessee Violent Crimes Task Force, and am working out of the FBI's Nashville Resident Agency ("NVRA") as a FBI Task Force Officer ("TFO"). I have been assigned to this position since July 1, 2017. In this capacity, I am deputized as a Special Federal Officer/Special Deputy United States Marshal. One of my duties is to investigate violent crimes to include retaliation against a witness, victim, or an informant under Title 18, United States Code, Section 1513(b)(1) and (c), occurring in the Middle District of Tennessee.
2. The facts contained in this complaint are based on first-hand knowledge, or information learned during this investigation from other law enforcement sources, or witnesses related to this investigation. The complaint does not provide each and every detail known by your affiant regarding this investigation, but rather provides information necessary to establish probable cause for the offense. Except where indicated, all statements referred to below are set forth in substance and in part, rather than verbatim.
3. This affidavit is submitted in support of a Criminal Complaint for the arrest of Deontae Birdsong ("BIRDSONG") for violating Title 18, United States Code, Section 1513(b)(1) and (c). I am aware that statute prohibits causing or threatening to cause bodily injury to another person with intent to retaliate for a person's attendance or testimony at an official proceeding, which includes federal criminal trials.
4. A federal grand jury in this district indicted Dionte Breedlove and Carlos Valcarcel-Arocho in a five-count superseding indictment returned on January 16, 2019, in case 3:18-cr-00253. In Count One of that superseding indictment, Breedlove and Valcarcel-Arocho were charged with conspiring to commit a robbery affecting commerce of a Rite Aid store located at 2416 West End Avenue, Nashville, Tennessee, on October 9, 2017, in violation of Title 18, United States Code, Sections 1951 and 2. In Count Two, Breedlove and Valcarcel-Arocho were charged with robbery affecting commerce of that Rite Aid store on October 9, 2017, in violation of Title 18, United States Code, Sections 1951 and 2. In Count Three, Breedlove and Valcarcel-Arocho were charged with knowingly using, carrying, brandishing, and discharging a firearm during and in relation to a crime of violence, that is robbery affecting commerce, in violation of Title 18, United States Code, Sections 924(c)(1)(A) and 2. In Count Four, Breedlove was charged alone with robbery affecting commerce of the same Rite Aid store, located at 2416 West End Avenue, Nashville, Tennessee, on or about September 14, 2017, in violation of Title 18, United States Code, Sections 1951 and 2. Finally, in Count Five, Breedlove was charged with knowingly using, carrying, and brandishing a firearm during and in relation to a crime of violence, that is robbery affecting commerce, in connection with the September 2017 robbery, in violation of Title 18, United States Code, Sections 924(c)(1)(A) and 2.

5. On June 14, 2019, Valcarcel-Arocho pleaded guilty to the charges filed in Counts One through Three of the superseding indictment pursuant to a plea agreement with the government.
6. Breedlove proceeded to trial on October 1, 2019, before Chief United States District Judge Waverly Crenshaw. During this trial, Valcarcel-Arocho testified in detail regarding his involvement in both Rite Aid robberies and directly implicated Breedlove as the gunman in both robberies. During one of those robberies, Breedlove shot an unarmed security guard. At the time of the robberies, Valcarcel-Arocho worked at the Rite Aid store.
7. On October 8, 2019, following a weeklong trial, the jury convicted Breedlove of each of the five (5) counts of the superseding indictment set forth above. Chief Judge Waverly Crenshaw set sentencing for Breedlove and Valcarcel-Arocho for February 4, 2020.
8. On December 12, 2019, shortly before 9:35 a.m, Valcarcel-Arocho, who is currently on bond, reported to his supervising U.S. Probation Officer that he had just been assaulted by Breedlove's brother. The probation officer contacted the U.S. Attorney's Office, and I was notified of the incident. I advised Valcarcel-Arocho to contact the Metropolitan Nashville Police Department (MNPd), and he did so, filing a report that that he was assaulted by Breedlove's brother, identified as "D'tae", in retaliation for Valcarcel-Arocho's testifying against Breedlove during the October 2019 trial. This assault took place in the parking lot of Rollins Market, located at 1200 East Old Hickory Boulevard, Madison, Tennessee.
9. I was with MNPd officers when Valcarcel-Arocho made that report, and I also interviewed him. Valcarcel-Arocho stated, in sum and substance, that he went to Rollins Market with a friend. While at the cold drink cooler area, he was confronted by Breedlove's brother, whom he knows as D'tae. During this confrontation, D'tae said to Valcarcel-Arocho, "What happened? What happened?" and stated that he had seen everything online, believed to be a reference to Breedlove's recent conviction, which was reported in the news. D'tae further made statements to the effect that he could not see Breedlove anymore, believed to be a reference to Breedlove going to federal prison. Valcarcel-Arocho stated that he declined to engage D'tae, and that D'tae walked away from him and exited the business.
10. Meanwhile, Valcarcel-Arocho and his friend walked to the front counter and paid for their purchases. As they exited the business, D'tae approached Valcarcel-Arocho quickly and began to punch him. D'tae threw Valcarcel-Arocho onto the friend's car and began repeatedly to punch him. D'tae then threw Valcarcel-Arocho onto the ground and began to strike Valcarcel-Arocho's head and face area with his fists while straddling him. The assault was captured on quality digital surveillance video and is consistent with Valcarcel-Arocho's account of the events.
11. During my interview of Valcarcel-Arocho, I observed injuries to him, which were consistent with being physically assaulted.

12. A review of the related surveillance video obtained by FBI shows what appears to be a red Dodge Avenger crossing Old Hickory Boulevard on Rio Vista Drive at or near 9:16:54 AM. The driver of the vehicle (D'tae) parks in the front parking lot of Rollins Market.
13. At or near 9:17:41 AM, D'tae exits and enters the business. He is observed wearing a long sleeve black / purple Federal Express work shirt, dark pants, and white shoes. D'tae approaches the front counter, and purchases what appears to be a lottery ticket, then exits the business at or near 9:18:20 AM. D'tae returns to the red Dodge Avenger, entering the driver seat, and remains parked in the parking lot.
14. At or near 9:18:45 AM, a blue in color vehicle arrives at Rollins Market. The driver parks within two parking spaces from the red Dodge Avenger. Valcarcel-Arocho exits the passenger side of that vehicle, and his friend exits the driver side. They both enter the business at 9:19:08 AM.
15. D'tae then exits his vehicle, and enters the business at 9:19:18 AM. He walks to the cold drink cooler area, where he engages with Valcarcel-Arocho. D'tae then turns and leaves the business at 9:20:25 AM.
16. After leaving the business, D'tae remains outside, standing near the entry/exit doors waiting for Valcarcel-Arocho to exit. At 9:23:00 AM, D'tae enters the rear driver-side door to the red Dodge Avenger that he had arrived in.
17. In the meantime, Valcarcel-Arocho and his friend can be seen paying for their purchases and exiting the business at 9:23:22 AM; at which time, D'tae immediately exits the red Dodge Avenger and approaches Valcarcel-Arocho.
18. At 9:23:25 AM, D'tae begins to punch Valcarcel-Arocho and throws Valcarcel-Arocho onto the blue in color vehicle. At that time, D'tae begins to strike Valcarcel-Arocho in the head and face area.
19. D'tae slips and lands on the ground, at which time, Valcarcel-Arocho attempts to respond to the assault by punching back at D'tae with his fists. However, D'tae then tackles Valcarcel-Arocho to the ground, straddling him in the process. D'tae begins to punch Valcarcel-Arocho in the head and face with both fists.
20. Valcarcel-Arocho manages to stand up, while D'tae has him in a choke hold. D'tae then pins Valcarcel-Arocho against the blue vehicle, and continues to strike Valcarcel-Arocho with his left hand, as he is also holding Valcarcel-Arocho by the neck with his right arm.
21. Ultimately, D'tae stops striking Valcarcel-Arocho and pushes him away. D'tae then enters the passenger side of the red Dodge Avenger, and is driven away.
22. Valcarcel-Arocho identified the driver of the red Dodge Avenger, as being a female Caucasian he knows to be D'tae's girlfriend.

23. During the initial investigation of the Rite Aid robberies, your affiant had previously identified D'tae's girlfriend as being an Alisa Medders ("MEDDERS").
24. Valcarcel-Arocho is familiar with MEDDERS, and has met her while interacting with Breedlove and D'tae. With this in mind, Valcarcel-Arocho was shown a known image of MEDDERS and identified her as being the driver of the red Dodge Avenger at the conclusion of the aforementioned assault.
25. Valcarcel-Arocho stated that he knows both Breedlove and D'tae from high school, and knows them to be siblings. Valcarcel-Arocho did not know D'tae's full name, but knew that he resided with Breedlove at 1407 Ocoee Trail, Madison, Tennessee.
26. Using the MNPd ARMS Master Name Index Search, your affiant identified D'tae as being Deontae Birdsong (BIRDSONG).
27. BIRDSONG shows a relationship to 1407 Ocoee Trail, Madison, Tennessee, in the MNPd ARMS Master Name Index Search, and has a MNPd ARMS hit for a November 2, 2019, traffic stop in Nashville, Tennessee. This address is the same address where Breedlove was arrested by MNPd officers in October of 2017 following the two Rite Aid robberies.
28. In this November 2, 2019, traffic stop, BIRDSONG was driving a vehicle bearing Tennessee license plate 4H58W7. A query of Tennessee license plate 4H58W7, via NCIC, associated it with a 2008 blue in color Chevrolet Impala registered to MEDDERS.
29. Based on the aforementioned facts, your affiant obtained an image of BIRDSONG from his Tennessee Driver's License, which was issued on March 22, 2019.
30. On December 17, 2019, your affiant met with Valcarcel-Arocho and showed him the aforementioned Tennessee Driver's License photograph of BIRDSONG. Valcarcel-Arocho positively identified BIRDSONG as being the person he knows as D'tae, and who is the person who assaulted him on December 12, 2019, in the parking lot of Rollins Market.
31. Of note, Valcarcel-Arocho had not had any contact with BIRDSONG since the conviction of Breedlove and had no conflict pending with him. Also, members of Breedlove's family and friends or associates of Breedlove attended his October 2019 trial, and Valcarcel-Arocho's cooperation in the prosecution was known, even before the trial commenced. Additionally, BIRDSONG'S listed residence on Ocoee Trail, referenced above, is the same listed residence for Breedlove's father according the MNPd ARMS database and Tennessee Driver's License information. Breedlove's father is believed to be the step-father of BIRDSONG.
32. Based upon the foregoing, I submit there is probable cause that Deontae BIRDSONG has committed the offense of Retaliation against a Witness, Victim, or an Informant, in violation of Title 18, United States Code, Section 1513(b)(1) and (c).